

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

James H. Davis, #312333,) Civil Action No.: 2:13-cv-01646-RBH
)
)
Plaintiff,)
)
)
v.) **ORDER**
)
)
J. Ranck, NCPD Officer #192; North)
Charleston Police Dept.; and Herbies)
Towing of North Charleston, SC,)
)
Defendants.)
)

Plaintiff James H. Davis, a state prisoner proceeding pro se, filed this action, alleging constitutional claims against the above-captioned Defendants. The matter is now before the Court for review after the issuance of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina. The Magistrate Judge recommends that the Court dismiss Plaintiff's claims without prejudice and without issuance and service of process for failure to state a claim.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. See Mathews v. Weber, 423 U.S. 261, 270–71 (1976). The Court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No party has filed objections to the Report and Recommendation. The mail sent by the Court to Plaintiff, which enclosed the Report and Recommendation, was "Returned to Sender" as

“Attempted – Not Known.”¹ Plaintiff has not furnished the Court with notice of a change of address different from the address where the Report and Recommendation was mailed, as he is required to do. *See* November 4, 2013 Order, ECF No. 14. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this Court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The Court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct *de novo* review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation’ ”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review of the record in this case, the Court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference. Therefore, it is

ORDERED that Plaintiff’s complaint be **DISMISSED** without prejudice and without issuance and service of process for failure to state a claim.

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. Bryan Harwell
United States District Judge

Florence, South Carolina
November 26, 2013

¹ Moreover, the returned envelope indicates that Plaintiff had been released from the custody of the South Carolina Department of Corrections (“SCDC”). *See* ECF No. 18. A search of the SCDC’s website confirms that Plaintiff is no longer in its custody.